

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KURTIS MONSCHKE,

Petitioner,

v.

JAMES N. CROSS and ELDON VAIL,

Respondent.

No. C11-5276 RBL/KLS

ORDER DENYING MOTION FOR THE
APPOINTMENT OF COUNSEL

This 28 U.S.C. § 2254 petition has been assigned to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S. C. § 636(b)(1) and Local MJR 3 and 4. Petitioner has filed a motion for the appointment of counsel. ECF No. 3. Petitioner requests the appointment of counsel because he is serving his sentence for his Washington conviction in Hazelton Penitentiary, a federal penitentiary, where he claims he has little or no access to relevant research or other materials. *Id.*

There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required, because the action is civil, not criminal, in nature. See *Terravona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988); *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1992); and Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts.

1 An evidentiary hearing has not been granted in this case and the claims in the petition are
2 adequately set forth and articulated. The court has not yet determined that an evidentiary hearing
3 is necessary. Therefore, Petitioner's request for counsel shall be denied at this time.

4 Accordingly, it is **ORDERED**:

- 5 (1) Petitioner's motion for counsel (ECF No. 3) is **DENIED**.
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7 (2) The Clerk is directed to send copies of this Order to Petitioner.

8 DATED this 19th day of April, 2011.

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11 Karen L. Strombom
12 United States Magistrate Judge
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